

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT LOUCKS,

Petitioner,

v.

MICHAEL CAPRA,

Respondent.

No. 16-CV-4227 (KMK)

ORDER ADOPTING
REPORT & RECOMMENDATION

KENNETH M. KARAS, United States District Judge:

Petitioner Robert Loucks (“Petitioner”) was convicted in Dutchess County Court of two counts of Class A-1 Felony of Murder in the Second Degree, in violation of N.Y. Penal Law §§ 125.25(01) & (03). Petitioner was sentenced as a predicate felony offender to an indeterminate term of 25 years to life imprisonment to run consecutively with Petitioner’s conviction in an unrelated murder case.

Following a direct appeal, the Second Department affirmed Petitioner’s conviction on February 18, 2015. *People v. Loucks*, 2 N.Y.S.3d 620 (App. Div. 2015), *leave to appeal denied*, 36 N.E.3d 101 (N.Y. 2015). Petitioner filed the instant petition for a Writ of Habeas Corpus (“Petition”) pursuant to 28 U.S.C. § 2254, seeking relief on six different grounds, most of which were pursued in state court. (Dkt. No. 1.)

The case was referred to the Honorable Judith C. McCarthy (“Judge McCarthy”). (Dkt. No. 6.) On April 22, 2019, Judge McCarthy issued a Report and Recommendation (“R&R”) recommending that this Court deny the Petition in its entirety. (Dkt. No. 15.) Petitioner has not filed any objections to the R&R.¹

¹ Judge McCarthy provided notice that, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 8(b) of the Rules Governing Section 2254 cases, objections to the R&R were due within fourteen days from the receipt of the R&R, or seventeen days from the receipt of the same if the R&R was

When no objections are filed, the Court reviews an R&R on a dispositive motion for clear error. *See Andrews v. LeClaire*, 709 F. Supp. 2d 269, 271 (S.D.N.Y. 2010); *Eisenberg v. New Eng. Motor Freight, Inc.*, 564 F. Supp. 2d 224, 226 (S.D.N.Y. 2008). The Court has reviewed the R&R and the Petition, and finding no substantive error, clear or otherwise, adopts the R&R.

Accordingly, it is hereby

ORDERED that the Report and Recommendation, dated April 22, 2019, is ADOPTED in its entirety.


ORDERED that Petitioner's writ of habeas corpus is DISMISSED.

ORDERED that because Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue, *see* 28 U.S.C. § 2253(c)(2); *Lucidore v. N.Y. State Div. of Parole*, 209 F.3d 107, 111-12 (2d Cir. 2000), and the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith. It is further

ORDERED that the Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: May 29, 2019
White Plains, New York


KENNETH M. KARAS
United States District Judge

served upon the parties by mail, and that the failure to object would constitute a waiver of Petitioner's right to appeal. (R&R 32.)